

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Eric Archie, :
Petitioner : Civil Action 2:12-cv-0052
v. : Judge Frost
Norm Robinson, Warden : Magistrate Judge Abel
Respondent :
:

ORDER

Petitioner Eric Archie, a State prisoner, brings this action under 28 U.S.C. §2254 alleging that he is in custody in violation of the Constitution of the United States. This matter is before the Court on Magistrate Judge Abel's January 26, 2012 Report and Recommendation that the petition for writ of habeas corpus under 28 U.S.C. §2254 be denied because it was filed beyond the one-year statute of limitations (doc.2).

On January 31 and February 1, 2012, petitioner Archie filed objections to the Report and Recommendation (docs.4 and 5). Petitioner argues that unspecified newly discovered evidence permits him to file this habeas corpus action more than one year the statute of limitations has run.

On May 29, 2002, petitioner Archie was convicted of attempted murder with a firearms specification in the Court of Common Pleas for Franklin County, Ohio. On July 9, 2002, he was sentenced to a of 11 years in prison. He did not appeal the conviction or sentence until filing a delayed appeal in 2007.

Any irregularities in the reindictment should have been known to petitioner before his conviction. Petitioner has not proffered any evidence to the contrary. Finding that the statute of limitations ran no later than August 31, 2002, the Court, upon *de novo* review as required by 28 U.S.C. §636(b)(1)(B), ADOPTS the Report and Recommendation.

The petition for writ of habeas corpus is DENIED. This action is hereby DISMISSED. The Clerk of Court is DIRECTED to enter JUDGMENT for respondent.

/s/ Gregory L. Frost
Gregory L. Frost
United States District Judge